

# BOVAG FIETSBEDRIJVEN GENERAL TERMS AND CONDITIONS OF HIRE

## DEFINITION OF TERMS

In these terms and conditions the terms below have the following meaning:

- bicycle: the bicycle or any other item that is (also) the subject of the hire agreement;
- hirer: the natural person or legal entity entering into the hire agreement as hirer;
- lender: natural person or legal entity who is a member of BOVAG Fietsbedrijven entering into the hire agreement as lender;
- consumer: the hirer who is a natural person and who has not entered into the hire agreement in the operation of a business or the course of a profession;
- damage for the lender: financial damage suffered by the lender as a result of:
  - damage (including if the bicycle or parts thereof are in a condition not caused by normal wear and tear) or a missing bicycle or accessories thereof (including the key) or parts thereof. This damage also includes the cost of replacing the bicycle or parts of the bicycle and the loss of hire income.
  - damage caused by the bicycle to a person or item that the lender or the liability insurer of the bicycle is liable for towards third parties.
- rider: the person actually riding the bicycle;
- in writing: in writing or electronically.

## Article 1: Applicability

These General Terms and Conditions apply to all agreements for lending and hiring bicycles, including any accessories, entered into between the lender and the hirer.

## Article 2: The offer

1. The lender makes an offer in writing or orally at the hirer's discretion.
2. The offer is irrevocable for 14 days subject to availability.
3. The offer contains a full and accurate description of the hire period, the hire sum and any possible additional cost elements. The amount of the excess, any commutation of the excess and any deposit or other form of security will also be stated.
4. The offer states the opening hours of the company and a telephone number where the company can be contacted.
5. The offer states the manner of payment and the form of security.
6. Where reasonably possible the offer will be accompanied by a copy of these General Terms and Conditions. If this is not possible then the general terms and conditions will be provided when the agreement is entered into.

## Article 3: The agreement

1. The agreement is entered into by accepting the offer. An oral agreement must be confirmed in writing by the lender.
2. The hire agreement is entered into for the period and price as stated on the hire agreement or otherwise agreed. The hire agreement also states the time when the hire period starts and ends.

## Article 4: Prices and Price Changes

1. The hire sum and any additional cost elements will be agreed on in advance just as any authority to amend the price in the interim. The lender will ensure that the hire sum is clearly stated on the hire agreement.
2. If a price change occurs within three months of concluding the agreement this will not affect the agreed price. The consumer is entitled to dissolve the agreement if the price is increased three months after concluding the agreement but before the hire period has commenced, unless the agreement stipulates that the hire period commences more than three months after the agreement.
3. The second paragraph does not apply to price changes that arise from the law such as those with regard to VAT.
4. Hire costs that do not ensue from the agreement cannot be charged.

## Article 5: The hire period and exceeding the hire period

1. The hirer is required to return the bicycle no later than the day and time when the hire period ends to the company and address stated in the hire agreement or another address agreed on. The lender is required to take receipt of the bicycle during opening hours.
2. The bicycle may only be returned outside of opening hours and/or to a different address with the lender's consent.
3. Agreements about returning the bicycle earlier within the agreed hire period are subject to confirmation.
4. If the bicycle is not returned at the end of any extended hire agreement in the agreed manner the lender is entitled to take the bicycle back immediately. The obligations arising from this agreement for the hirer remain in force until the time that the bicycle is back in the lender's possession.
5. If the hirer has not returned the bicycle on time, the lender is entitled to charge the hirer 20% of the daily rent for each hour that the hire period is exceeded. After excess of five hours a maximum of 1 1/2 times the hire price can be charged per day without prejudice to the hirer's obligation to reimburse the lender for any damage suffered or to be suffered. If it is in fact permanently impossible to return the bicycle then no increased rent will be charged. The increase in the rent does not apply if the hirer demonstrates that exceeding the hire period was caused by force majeure.

## Article 6: Cancellation

1. If an agreement is cancelled the hirer owes the following cancellation costs:
  - cancellation up until the 42nd day (exclusive) prior to the day of hire: the down payment to a maximum of 20% of the hire sum;
  - cancellation from the 42nd day onwards (inclusive) until the 28th day (exclusive) prior to the day of hire: 35% of the hire sum;
  - cancellation from the 28th day onwards (inclusive) until the 21st day (exclusive) prior to the day of hire: 40% of the hire sum;
  - cancellation from the 21st day onwards (inclusive) until the 14th day (exclusive) prior to the day of hire: 50% of the hire sum;
  - cancellation from the 14th day onwards (inclusive) until the 5th day (exclusive) prior to the day of hire: 75% of the hire sum;
  - cancellation from the 5th day (inclusive) prior to the day of hire: 90% of the hire sum;
  - cancellation on the day of hire or later: the full hire sum.
2. Cancellations outside of office hours are deemed to have been made on the following calendar day.

## Article 7: Payment

1. Advance payment up to 50% of the hire sum can only be asked for hire agreements where the hire period commences within three months. On commencement of the hire period payment of a deposit may be requested.
2. The deposit will be returned after set off of any outstanding costs as soon as the bicycle is returned, unless there is damage for the lender. In the event of damage for the lender the deposit will be returned insofar as it exceeds the amount that the hirer is liable for. This return will take place as soon as it is clear that there such an excess actually exists. If there is only damage to the bicycle, the return shall take place in any case within 2 months; if there is (also) damage to third parties, then within 6 months.
3. In the event that the damage for the lender was caused by third parties and the lender has recovered the damage fully from these third parties then the deposit will be returned within 14 days of recovery of the damage. The lender shall endeavour to recover damage caused by third parties as soon as possible. The lender will keep the hirer informed of the developments.
4. Unless otherwise agreed, payment of the hire sum must be made immediately at the end of the hire period. Payment of other amounts must be made within ten days of receipt of the invoice in question. The hirer is in default by operation of law if he does not pay. From the date of default the hirer owes statutory interest over the outstanding amount for non-trade agreements. On top of this the hirer is required to pay the costs incurred by the lender for collection. The extrajudicial collection costs are determined in advance at the following amounts, unless these would be unreasonable in a particular case:
  - €44 including VAT, if the principal plus interest is €500 or less, with a maximum of 15% of the principal;
  - €75 including VAT if the principal plus interest is more than €500 but less than €5000;
  - €768 including VAT if the principal plus interest is more than €5000 but less than €10,000;
  - €904 including VAT if the principal plus interest is more than €10,000 but less than €20,000;
  - €1158 including VAT if the principal plus interest is more than €20,000.

## Article 8: Hirer's obligations

1. Without prejudice to the provisions here below, the hirer must treat the bicycle as befits a good hirer and ensure that the bicycle is used in accordance with its purpose.
2. The hirer is required to return the bicycle to the lender in its original condition. This also means that the hirer is required to undo any changes and additions that he – or someone on his behalf – has made to the bicycle, i.e. to such an extent that he can return the bicycle to the lender again in its original condition. For this, the hirer can make no claim at all to compensation.
3. The hirer is required to secure loads on the bicycle with due care.

4. Only persons indicated as rider in the hire agreement may ride the bicycle. The hirer is not permitted to give the bicycle to a person who is not listed in the hire agreement as rider. The hirer must make sure that no person indicated in the hire agreement as rider rides the bicycle if he is unauthorised to do so or is evidently mentally or physically unfit to do so.
5. The hirer is not permitted to hire the bicycle out.
6. The hirer is not permitted to take the bicycle over the borders of the Netherlands unless otherwise agreed in writing with the lender.
7. In the event of apparent or observable damage or defects to the bicycle the hirer is not permitted to use the bicycle if that could lead to exacerbation of the damage or the defects or affect traffic safety.
8. The hirer is required to impose the obligations and provisions of this article on riders, passengers and other users of the bicycle and to ensure the observance thereof.
9. The hirer must, among other things, take due care of the keys pertaining to the bicycle.

## Article 9: Instructions for the hirer

1. The hirer is required to return the bicycle in a clean condition. Cleaning costs to a minimum of €10 may be charged if this obligation is not observed.
2. In the event of apparent or observable defects to the hirer, damage caused to or by the bicycle or loss of the bicycle, the hirer is required:
  - to report this as soon as possible;
  - to follow the lender's instructions;
  - on request or otherwise, to provide all information and documents that relate to the event to the lender or its insurer;
  - not to leave the bicycle behind without properly securing it against the risk of damage or loss;
  - to afford the lender and persons appointed by the lender the requested cooperation in order to obtain compensation from third parties or put forward defence against claims of third parties.
5. In the event of accidents, damage or loss the hirer is also required:
  - to report this to the local police;
  - to submit a fully completed and signed claim form to the lender as soon as possible;
  - to refrain from admitting guilt in any way.
6. The hirer is required to impose the obligations and provisions of this article on the rider and other users of the bicycle and to ensure the observance thereof.
7. The hirer must inform the lender as soon as possible about:
  - the occurrence of an event where damage was or could reasonably have been caused to, with or by the bicycle;
  - the bicycle breaking down;
  - loss or otherwise loss of control over the bicycle, its parts and accessories;
  - attachment of the bicycle;
  - and any other conditions that the lender should reasonably be informed of.
8. If the lender has to provide information to the authorities about the identity of the person who was riding or using the bicycle at any time, the hirer must answer the lender's questions in this respect as soon as possible.

## Article 10: Lender's obligations

1. The lender provides the bicycle with the statutory and agreed modalities and accessories, clean, well maintained and insofar as known to or should be known to the lender, in a technically good condition.
2. Together with the hirer the lender will draw up a report prior to hire showing any damage to the bicycle.
3. The lender provides the hirer with the required documents prior to the hire period.
4. The lender will inspect the bicycle for any damage immediately after return by the hirer. This also applies when the bicycle is returned to the own branch as well as when it is returned to another branch.

## Article 11: Hirer's liability for damage

1. If the lender suffers damage, the hirer is liable per claim to the amount of the excess stated in the hire agreement.
2. However, if the damage was caused as a result of actions or omissions in violation of Article 8, the hirer is fully liable for damage of the lender unless he can prove that these actions or omissions cannot be attributed to him or full compensation would be unacceptable according to standards of reasonableness and fairness.
3. If the bicycle is returned outside of opening hours with the lender's consent and/or if the bicycle is made available for collection by the lender at a location further agreed upon that is not the lender's company location, then, in accordance with the first or second paragraph, the hirer remains liable for the damage of the lender arising until the time when the lender has actually inspected the bicycle or had it inspected. The lender shall inspect the bicycle at the first opportunity in the above-mentioned situations and inform the hirer immediately if it discovers any damage.
4. In the event of damage to the bicycle abroad the repatriation costs of the bicycle are payable by the lender unless the second paragraph of this article applies.
5. The hirer is liable for actions and omissions of the rider and other users of the bicycle, even if they did not have the hirer's consent.

## Article 12: Defects to the bicycle and the lender's liability

1. In the event of damage to the hirer caused by a defect of the bicycle the lender is liable for compensation of the damage except insofar as the injured party can claim payments by reason of insurance or on another basis.
2. The lender is required at the hirer's request to remedy defects unless it is impossible or requires expenses that under the circumstances cannot reasonably be expected of the lender. This obligation does not apply if the hirer is liable toward the lender for the cause of the defect and/or the consequences of the defect.

## Article 13: Dissolution of the hire agreement

1. The lender is entitled to terminate the hire agreement without notice of default or legal intervention and take possession of the bicycle again without prejudicing his right to compensation for costs, damage and interest, if:
  - during the hire period the hirer does not observe one or more of his obligations or not on time or not in full, unless the shortcoming does not justify dissolution;
  - the hirer dies, is put under guardianship, applies for a moratorium, is declared bankrupt, is granted statutory debt adjustment under the Debt Management (Natural Persons) Act;
  - the lender becomes aware of circumstances that are of such a nature that if the lender had been aware thereof beforehand he would never have entered into the hire agreement.
2. The hirer shall afford the lender full cooperation to enable him to obtain possession of the bicycle again.
3. If the hirer dies before the hire period commences, the hire agreement is dissolved without requiring notice of default or legal intervention.
4. The lender is not liable for damage caused by dissolution of the hire agreement.

## Article 14: Complaints and Disputes Regulations

Complaints about performance of the agreement must be specified clearly and fully to the lender promptly once the hirer has discovered the alleged shortcomings. If the complaint is not made on time this may mean that the hirer loses his rights in this respect. If the handling of the complaint by the lender does not lead to a satisfactory result for the hirer, the hirer can present his complaint to BOVAG Bemiddeling, PO Box 1100, 3980 DC in Bunnik, (tel. no. 0900 2692268 (35 eurocents per minute)) if it concerns a complaint about the interpretation or performance of these general terms and conditions for hire with regard to the lender who is a member of BOVAG Fietsbedrijven. This agency shall mediate the complaint and attempt to resolve the complaint amicably according to dispute regulations that parties will be informed of in advance.

## Article 15: Processing the personal data of the hirer and the rider

Personal data stated in the agreement will be processed by the lender as the responsible party within the meaning of the Data Protection Act in a personal data register. Processing data in this way enables the lender to perform the agreement, provide the hirer or rider with optimum service and up to date product information and make personalised offers to the hirer or rider. In this respect the hirer may request inspection or correction of the personal data processed and file objections. Insofar as direct mailings are concerned objection will be honoured at all times.

## Article 16: Applicable law

The hire agreement is governed by Dutch law unless pursuant to mandatory law the law of another country applies.

